

1 [counsel listed on signature page]
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.

Case No. CV 10-03561 WHA (DMR)

Plaintiff,

**STIPULATION AND [PROPOSED]
ORDER TO STAY EXECUTION OF
COSTS AWARD PENDING APPEAL**

v.

GOOGLE INC.

Dept.: Courtroom 9, 19th Floor
Judge: Honorable William H. Alsup

Defendant.

STIPULATION

WHEREAS, on September 4, 2012, the Court awarded costs to Google in the amount of \$1,130,320 (“Costs Award”) (ECF 1241 at 5);

WHEREAS, on October 3, 2012, Oracle filed a Notice of Appeal from the Final Judgment entered by the Court on June 20, 2012 (ECF 1211);

WHEREAS, Oracle desires to stay execution of the Costs Award pending appeal, pursuant to Fed. R. Civ. P. 62(d), and seeks a waiver of the requirement that it post a supersedeas bond; and

WHEREAS, Google is agreeable to staying execution of the Costs Award pending appeal and agrees to waive the requirement that Oracle post a supersedeas bond, provided that Oracle pay the Costs Award with post-judgment interest, provided the Costs Award has not been overturned, at the exhaustion of all appellate proceedings;

NOW THEREFORE THE PARTIES HEREBY STIPULATE AND AGREE as follows:

1. Pursuant to Fed. R. Civ. P. 62(d), execution of the costs awarded by this Court on September 4, 2012, shall be stayed pending appeal from the Final Judgment of June 20, 2012. By agreement of the parties, Oracle is not required to post a supersedeas bond.

2. Provided the Costs Award has not been overturned, at the exhaustion of all appellate proceedings Oracle shall pay that award with post-judgment interest.

STIPULATION AND [PROPOSED] ORDER TO STAY EXECUTION OF COSTS AWARD PENDING APPEAL
CASE NO. CV 10-03561 WHA (DMR)

ORDER

The foregoing stipulation is approved, and IT IS SO ORDERED.

Date: October 15, 2012.

Honorable William Alsup
Judge of the United States District Court

1 Dated: October 15, 2012

MORRISON & FOERSTER LLP

2 By: /s/ Michael A. Jacobs

3
4 MORRISON & FOERSTER LLP
5 MICHAEL A. JACOBS (Bar No. 111664)
mjacobs@mofo.com
6 KENNETH A. KUWAYTI (Bar No. 145384)
kkuwayti@mofo.com
7 MARC DAVID PETERS (Bar No. 211725)
mdpeters@mofo.com
8 DANIEL P. MUINO (Bar No. 209624)
dmuino@mofo.com
9 755 Page Mill Road
Palo Alto, CA 94304-1018
Telephone: (650) 813-5600
Facsimile: (650) 494-0792

10
11 BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (Admitted *Pro Hac Vice*)
dboies@bsfllp.com
12 333 Main Street
Armonk, NY 10504
13 Telephone: (914) 749-8200
Facsimile: (914) 749-8300
14 STEVEN C. HOLTZMAN (Bar No. 144177)
sholtzman@bsfllp.com
15 1999 Harrison St., Suite 900
Oakland, CA 94612
16 Telephone: (510) 874-1000
Facsimile: (510) 874-1460

17
18 ORACLE CORPORATION
DORIAN DALEY (Bar No. 129049)
dorian.daley@oracle.com
19 DEBORAH K. MILLER (Bar No. 95527)
deborah.miller@oracle.com
20 MATTHEW M. SARBORARIA (Bar No.
211600)
matthew.sarboraria@oracle.com
21 500 Oracle Parkway
Redwood City, CA 94065
22 Telephone: (650) 506-5200
Facsimile: (650) 506-7114

23
24 *Attorneys for Plaintiff*
ORACLE AMERICA, INC.

1 Dated: October 15, 2012

KEKER & VAN NEST, LLP

2 By: /s/ Robert A. Van Nest

3 ROBERT A. VAN NEST (SBN 84065)
4 rvannest@kvn.com
5 CHRISTA M. ANDERSON (SBN184325)
canderson@kvn.com
6 DANIEL PURCELL (SBN 191424)
dpurcell@kvn.com
7 710 Sansome Street
San Francisco, CA 94111-1704
Telephone: (415) 391-5400
Facsimile: (415) 397-7188

8
9 SCOTT T. WEINGAERTNER (*Pro Hac Vice*)
sweingaertner@kslaw.com
10 ROBERT F. PERRY
rperry@kslaw.com
11 BRUCE W. BABER (*Pro Hac Vice*)
bbaber@kslaw.com
12 1185 Avenue of the Americas
New York, NY 10036-4003
Telephone: (212) 556-2100
Facsimile: (212) 556-2222

13
14 DONALD F. ZIMMER, JR. (SBN 112279)
fzimmer@kslaw.com
15 CHERYL A. SABNIS (SBN 224323)
csabnis@kslaw.com
16 KING & SPALDING LLP
17 101 Second Street - Suite 2300
San Francisco, CA 94105
18 Telephone: (415) 318-1200
Facsimile: (415) 318-1300

19
20 GREENBERG TRAURIG, LLP
IAN C. BALLON (SBN 141819)
ballon@gtlaw.com
21 HEATHER MEEKER (SBN 172148)
meekerh@gtlaw.com
1900 University Avenue
22 East Palo Alto, CA 94303
Telephone: (650) 328-8500
Facsimile: (650) 328-8508

23
24 *Attorneys for Defendant*
GOOGLE INC.

ATTESTATION

I, Michael A. Jacobs, am the ECF User whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER TO STAY EXECUTION OF COSTS AWARD PENDING APPEAL. In compliance with General Order 45, X.B., I hereby attest that Robert A. Van Nest has concurred in this filing.

Date: October 15, 2012

/s/ Michael A. Jacobs